



# House of Representatives

General Assembly

**File No. 323**

*February Session, 2004*

Substitute House Bill No. 5236

*House of Representatives, March 30, 2004*

The Committee on Environment reported through REP. WIDLITZ of the 98th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING LAWN CARE PESTICIDES SALES AND STORAGE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-47 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 For purposes of this part, section 2 of this act, subsection (a) of  
4 section 23-61a and sections 23-61b and 23-61f, as amended:

5 (a) "Active ingredient" means:

6 (1) In the case of a pesticide other than a plant regulator, defoliant,  
7 or desiccant, an ingredient which will prevent, destroy, repel, or  
8 mitigate any pest;

9 (2) In the case of a plant regulator, an ingredient which, through  
10 physiological action, will accelerate or retard the rate of growth or rate  
11 of maturation or otherwise alter the behavior of ornamental or crop

12 plants or the product thereof;

13 (3) In the case of a defoliant, an ingredient which will cause the  
14 leaves or foliage to drop from a plant; and

15 (4) In the case of a desiccant, an ingredient which will artificially  
16 accelerate the drying of plant tissue;

17 (b) "Adulterated" applies to any pesticide if:

18 (1) Its strength or purity falls below the professed standard of  
19 quality as expressed on its labeling under which it is sold;

20 (2) Any substance has been substituted wholly or in part for the  
21 pesticide; or

22 (3) Any valuable constituent of the pesticide has been wholly or in  
23 part abstracted;

24 (c) "Animal" means all vertebrate and invertebrate species,  
25 including but not limited to man and other mammals, birds, fish, and  
26 shellfish;

27 (d) "Certified applicator" means any individual who is certified  
28 under section 22a-54, as amended;

29 (e) "Private applicator" means a certified applicator who uses or  
30 supervises the use of any pesticide, which is classified for restricted  
31 use for the purpose of producing any agricultural commodity, on  
32 property owned or rented by the applicator or the applicator's  
33 employer or if applied without compensation other than trading of  
34 personal services between producers of agricultural commodities on  
35 the property of another person: A pesticide shall be construed to be  
36 applied under the direct supervision of a private applicator if it is  
37 applied by a competent person on property owned or rented by a  
38 private applicator acting under the instructions and control of a  
39 private applicator who is available if and when needed;

40 (f) "Commercial applicator" means any individual, whether or not

41 such individual is a private applicator with respect to some uses, who  
42 uses or supervises the use of (1) any restricted use pesticides, or (2) any  
43 pesticide on property not owned or rented by such individual or such  
44 individual's employer;

45 (g) "Commissioner" means the Commissioner of Environmental  
46 Protection;

47 (h) "Defoliant" means any substance or mixture of substances  
48 intended for causing the leaves or foliage to drop from a plant, with or  
49 without causing abscission;

50 (i) "Desiccant" means any substance or mixture of substances  
51 intended for artificially accelerating the drying of plant tissue;

52 (j) "Device" means any instrument or contrivance which uses  
53 pesticides and is intended for trapping, destroying, repelling, or  
54 mitigating any pest or any other form of plant or animal life; but not  
55 including equipment used for the application of pesticides when sold  
56 separately therefrom;

57 (k) "Environment" includes the ecosystem of water, air, land, plants,  
58 man and other animals, and the interrelationships which exist among  
59 these;

60 (l) "Imminent hazard" means a situation which exists when the  
61 continued use of a pesticide, during the time required for a  
62 cancellation proceeding as provided in section 22a-52, would be likely  
63 to result in unreasonable adverse effects on the environment or will  
64 involve unreasonable hazard to the survival of a species declared  
65 endangered by the Secretary of the Interior pursuant to the provisions  
66 of 83 Stat. 275 (P.L. 91-135), as may be amended from time to time;

67 (m) "Inert ingredient" means an ingredient which is not active;

68 (n) "Ingredient statement" means a statement which contains the  
69 name and percentage of each active ingredient, and the total  
70 percentage of all inert ingredients, in the pesticide; and a statement of

71 the percentages of total and water soluble arsenic, calculated as  
72 elementary arsenic, if any;

73 (o) "Insect" means any of the numerous small invertebrate animals  
74 generally having the body more or less obviously segmented, for the  
75 most part belonging to the class insecta, comprising six-legged, usually  
76 winged forms, including, but not limited to, beetles, bugs, bees, flies,  
77 and to other allied classes of arthropods whose members are wingless  
78 and usually have more than six legs, including, but not limited to,  
79 spiders, mites, ticks, centipedes, and wood lice;

80 (p) "Label" means the written, printed, or graphic matter on, or  
81 attached to, the pesticide or device or any of its containers or  
82 wrappers;

83 (q) "Labeling" means all labels and all other written, printed or  
84 graphic matter, accompanying the pesticide or device or to which  
85 reference is made on the label or in literature accompanying the  
86 pesticide or device;

87 (r) A pesticide is misbranded if:

88 (1) Its labeling bears any statement, design, or graphic  
89 representation relative thereto or to its ingredients which is false or  
90 misleading in any particular;

91 (2) It is contained in a package or other container or wrapping  
92 which does not conform to the standards established by 86 Stat. 979  
93 (P.L. 92-516), as may be amended from time to time;

94 (3) It is an imitation of, or is offered for sale under the name of  
95 another pesticide;

96 (s) "Microorganism" means any microscopic organism including but  
97 not limited to alga, bacterium, fungus, and virus except those on or in  
98 living man or other animals and those on or in processed food,  
99 beverage or pharmaceuticals;

100 (t) "Nematode" means invertebrate animals of the phylum  
101 nemathelminthes and class nematoda, that is, unsegmented round  
102 worms with elongated, fusiform, or sac-like bodies covered with  
103 cuticle and inhabiting soil, water, plants, or plant parts which may also  
104 be called nemas or eelworms;

105 (u) "Person" means any individual, partnership, association,  
106 corporation, limited liability company, government entity, or any  
107 organized group of persons whether incorporated or not;

108 (v) "Pest" shall have the meaning provided in 40 CFR 152.5, as  
109 amended from time to time;

110 (w) "Pesticide" means any substance or mixture of substances  
111 intended for preventing, destroying, repelling, or mitigating any pest,  
112 or any substance or mixture of substances intended for use as a plant  
113 regulator, defoliant or desiccant;

114 (x) "Plant regulator" means any substance or mixture of substances  
115 intended, through physiological action, for accelerating or retarding  
116 the rate of growth or rate of maturation, or for otherwise altering the  
117 behavior of plants or the produce thereof, but shall not include  
118 substances to the extent that they are intended as plant nutrients, trace  
119 elements, nutritional chemicals, plant inoculants, and soil amendments  
120 which are not for pest destruction and are nontoxic, nonpoisonous in  
121 the undiluted packaged concentration;

122 (y) "Registrant" means a person who has registered any pesticide  
123 pursuant to the provisions of this chapter;

124 (z) "Unreasonable adverse effects on the environment" means any  
125 unreasonable risk to man or the environment, taking into account the  
126 economic, social, and environmental costs and benefits of the use of  
127 any pesticide;

128 (aa) "Weed" means any plant which grows where not wanted;

129 (bb) "FIFRA" means the federal Insecticide, Fungicide and

130 Rodenticide Act, 7 USC 135 et seq., as amended by the federal  
131 Environmental Pesticide Control Act of 1972, 7 USC 136 et seq., and as  
132 may be amended from time to time;

133 (cc) "Restricted use pesticide" means any pesticide or pesticide use  
134 classified as restricted by the administrator of the United States  
135 Environmental Protection Agency or by the commissioner; and

136 (dd) "Integrated pest management" means use of all available pest  
137 control techniques including judicious use of pesticides, when  
138 warranted, to maintain a pest population at or below an acceptable  
139 level, while decreasing the unnecessary use of pesticides.

140 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) As used in this section,  
141 "lawn care pesticide" means a pesticide registered by the United States  
142 Environmental Protection Agency and labeled pursuant to FIFRA for  
143 use in or around household premises in lawn, garden and ornamental  
144 sites or areas.

145 (b) No person shall offer for sale a lawn care pesticide in a nonrigid  
146 container at a facility that contains food products for sale, except for  
147 food products contained in a vending machine or food products  
148 offered for sale on behalf of a nonprofit organization as a fund raiser.

149 (c) The Commissioner of Environmental Protection shall adopt  
150 regulations, in accordance with the provisions of chapter 54, regarding  
151 the methods of storage, prior to sale or distribution, of lawn care  
152 pesticides, so as to protect human health and prevent groundwater  
153 contamination.

154 Sec. 3. Subsection (e) of section 22a-63 of the general statutes is  
155 repealed and the following is substituted in lieu thereof (*Effective*  
156 *October 1, 2004*):

157 (e) Any person who violates any provision of this chapter or section  
158 2 of this act may be assessed a civil penalty of not more than two  
159 thousand five hundred dollars per day for each day such violation  
160 continues. The Attorney General, upon complaint of the commissioner,

161 shall institute a civil action to recover such penalty in the superior  
162 court for the judicial district of Hartford. All actions brought by the  
163 Attorney General shall have precedence in the order of trial as  
164 provided in section 52-191.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>

**ENV**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Department of Environmental Protection	Environmental Quality/GF - Cost	See Below	See Below
Attorney General	GF - Cost	None	None
	GF - Revenue	Potential Minimal	Potential Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

Requiring the Department of Environmental Protection to adopt regulations on methods of storing lawn pesticides is anticipated to result in the need for outside resources, an additional employee, or the diversion of the resources of staff away from their current duties at a cost of \$75,000 in FY 05.

Any potential workload increase under the bill could be handled by the Office of the Attorney General within budgeted resources. Any potential revenue gain from civil fines would be minimal.



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**OLR Bill Analysis**

sHB 5236

**AN ACT CONCERNING LAWN CARE PESTICIDES SALES AND STORAGE****SUMMARY:**

This bill bans the sale of lawn care pesticides packaged in non-rigid containers at stores that sell food, except for food sold (1) in a vending machine or (2) to raise money for a nonprofit organization. To protect human health and prevent groundwater contamination it requires the Department of Environmental Protection (DEP) commissioner to adopt regulations concerning methods of storing lawn pesticides before they are sold or distributed. It subjects people who violate the bill to a civil penalty of up to \$2,500, for each day the violation continues. As under current law, the commissioner may ask the attorney general to sue the violator in Hartford Superior Court, and such an action will take precedence over other civil actions for purposes of trial.

EFFECTIVE DATE: October 1, 2004

**LAWN CARE PESTICIDE**

Under the bill, a "lawn care pesticide" is a pesticide registered by the U.S. Environmental Protection Agency and labeled according to the Federal Insecticide, Fungicide and Rodenticide Act (7 USC § 136 *et seq.*) for use in or around household premises in lawn, garden, and ornamental sites or areas.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 27      Nay 0